

Hon. Steven I. Locke
100 Federal Plaza
Courtroom 820
Central Islip, New York 11722

August 30, 2024

Re: Tupper v. State of New York, et al.
Ongoing Federal Litigation and Unauthorized Attempt to Sell Property
Case No. 24-cv-2852

Dear Honorable Judge Locke,

I am writing to bring to your attention a matter of urgent concern related to the ongoing federal litigation, Case No. 24-cv-2852, over which you preside. This letter seeks to inform you of recent actions taken by the defendant, Micheal Nardolillo of Friedman and Vartolo, and other attorneys associated with the firm, which I believe undermine the integrity of the federal court's proceedings and potentially violate legal standards.

Despite the court's order requiring a response to my supplemental pleading by August 2, 2024, the defendants have failed to comply. Furthermore, they are now attempting to circumvent the federal litigation by seeking to sell the property in question through the State Supreme Court (Ex A). This action is particularly concerning given the active lis pendens and the ongoing nature of the federal case, which directly involves the property's status.

The defendants' actions raise significant legal and ethical issues, including:

1. Violation of Court Orders: The failure to respond to the court's order by the specified deadline of August 2, 2024, undermines the judicial process and disrespects the court's authority.
2. Attempt to Circumvent Federal Litigation: By seeking to sell the property in State Supreme court despite ongoing federal litigation, the defendants are attempting to sidestep the federal legal process, potentially affecting the outcome of this case and the rights of all parties involved.
3. Legal and Ethical Concerns: These actions may not only be improper but could also border on illegality, given the clear notice of lis pendens, and the direct relevance of the federal litigation to the property.
4. I have also attached as an Exhibit (B), the Notice Of Rejection Of Request For Sale Date in Supreme Court.

In light of these developments, I respectfully request the court's intervention to protect the property and the integrity of the ongoing federal proceedings. Specifically, I seek orders on the following actions:

- a. Issuance of an Injunction: To prevent the sale of the property until the resolution of the federal litigation.
- b. Sanctions or Penalties: Against the defendants for their failure to comply with court orders and their attempts to undermine the federal litigation process.

FILED
CLERK
BOX.COM
August 30, 2024 at 6:00 PM
U.S. DISTRICT COURT
EASTERN DISTRICT OF NEW YORK
LONG ISLAND OFFICE

I am prepared to provide any additional information or documentation required by the court to address this matter. Your prompt attention to this urgent issue is greatly appreciated, as it not only affects the parties involved but also the respect and authority of the federal judicial system.

Thank you for your attention to this matter.

Sincerely,

/s/Garrett B. Tupper Jr.

Garrett B. Tupper Jr.
537 Liberty ave
Williston Park, NY 11596
(347) 612-6072
garrett@peoplepc.com

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK COUNTY OF NASSAU

REQUEST FOR FORECLOSURE AUCTION DATE

TO SCHEDULE A FORECLOSURE SALE, THIS FORM MUST BE COMPLETED IN FULL AND
UPLOADED TO THE FILE IN NYSCEF*

*For Matters not in NYSCEF, this form is to be hand delivered to the clerk's office in room 186.

INDEX NUMBER	614054/2018
TITLE OF CASE	MTGLQ vs. Tupper
PLAINTIFF'S ATTORNEY	Friedman Vartolo LLP
REFEREE NAME	James Keefe, Esq.
REFEREE PHONE	516-978-7683
REFEREE E-MAIL	james@jameskeefepc-law.com
AUCTION DATE REQUESTED:	10/21/2024
AUCTION TIME REQUESTED:	2:00 pm
ALTERNATE AUCTION DATE:	10/22/2024
ALTERNATE AUCTION TIME:	2:00 pm

AUCTIONS MUST BE SCHEDULED 30 MINUTES APART ON THE HOUR AND HALF HOUR ON ANY DATE CERTAIN BETWEEN MONDAY THROUGH FRIDAY (EXCLUSIVE OF COURT HOLIDAYS) AND BETWEEN THE HOURS OF 2:00 PM AND 5:00 PM ON THE NORTH SIDE STEPS OF THE NASSAU COUNTY SUPREME COURT LOCATED AT 100 SUPREME COURT DRIVE, MINEOLA, NY 11501

YOU WILL RECEIVE A REPLY EMAIL CONFIRMING YOUR REQUEST OR NOTIFYING YOU THAT YOUR REQUESTED DATE/TIME IS NOT AVAILABLE

EXHIBIT B

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

-----X

MTGLQ INVESTORS, L.P.,

Index No. 614054/2018

Plaintiff
-against-

**NOTICE OF REJECTION TO
REQUEST FOR SALE DATE**

AILEEN TUPPER, GARRETT TUPPER et al.,

Defendants

-----X

TO THE SUPREME COURT OF THE STATE OF NEW YORK NASSAU COUNTY

I, Garrett B. Tupper Jr., in my capacity as the property owner, and title holder without encumbrance, hereby submit this Notice of Rejection in response to the defendant's request for a sale date of my property located at 537 Liberty Avenue, Williston Park, NY 11596. This rejection is firmly grounded on the ongoing federal litigation, Case No.: 2:24-CV-24-2582-GRB-SIL (Ex A), and the presence of a lis pendens notice filed against the property in the Nassau County Clerk's office on July 11, 2024 (Ex B), which collectively signal the property's contested status and the imprudence of proceeding with a sale at this juncture.

The attempt to sell the property under these circumstances not only disregards the unresolved legal disputes but also undermines the legal process and the authority of this court. The ongoing federal litigation and the lis pendens serve as formal notices of these disputes, effectively restricting any transactions related to the property until the resolution of the case.

In support of this Notice of Rejection, I cite the following legal authorities and precedents:

LIS PENDENS AND ITS EFFECT ON PROPERTY TRANSACTIONS

1. The doctrine of lis pendens warns all potential purchasers that any interests acquired in the property during the pendency of litigation are subject to the outcome of the litigation.

AUTHORITY OF COURTS TO STAY PROCEEDINGS

2. The courts possess inherent authority to control the disposition of properties within their jurisdiction, especially in cases where ongoing litigation may affect the outcome of property rights. This includes the power to stay proceedings or postpone sales to ensure justice is served, as discussed in *Nken v. Holder*, 556 U.S. 418 (2009).

PRECEDENTS ON POSTPONING SALES

3. *Chase Manhattan Bank v. Smith*, 737 F.2d 453 (5th Cir. 1984), illustrates the court's discretion to postpone a foreclosure sale pending the outcome of litigation that could affect the property's title or ownership.

Empire Life Insurance Co. v. Valdak Corp., 468 F.2d 330 (5th Cir. 1972), demonstrates that a lis pendens notice can justify a court's decision to postpone a sale until the resolution of the dispute.

IMPACT OF FEDERAL LITIGATION ON PROPERTY SALES

4. Federal courts recognize the impact of litigation on property transactions, with the authority to issue injunctions or orders halting the sale of property pending the resolution of the federal case, as seen in *Grupo Mexicano de Desarrollo S.A. v. Alliance Bond Fund, Inc.*, 527 U.S. 308 (1999).

APPLICATION OF LIS PENDENS IN FEDERAL LITIGATION

5. The effect of a lis pendens filed in connection with federal litigation is acknowledged, serving as notice to all potential purchasers or encumbrancers of the property's contested status, as recognized in *United States v. Certain Real Property Located at 2525 Leroy Lane, West Bloomfield, Michigan*, 910 F.2d 343 (6th Cir. 1990).

Given the foregoing legal authorities and precedents, I assert that the defendant's request for a sale date is premature, prejudicial, and directly contravenes established legal principles. I

respectfully demand that the court deny the defendant's request and instead issue a stay or postponement of any sale proceedings until the federal litigation has been resolved.

Dated August 30, 2024
Williston Park, NY 11596

Respectfully submitted,

Garrett B. Tupper Jr.
537 Liberty ave
Williston Park, NY 11596
(347)612-6072
garrett@peoplepc.com

EXHIBIT A

State case

FILED

CLERK

Box.com

6/20/2024

U.S. DISTRICT COURT

EASTERN DISTRICT OF NEW YORK

LONG ISLAND OFFICE

Case No.: 24-CV-24-2582-GRB-SIL

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
GARRETT B. TUPPER JR.,

Plaintiff,

-against-

THE STATE OF NEW YORK, DAVID P. SULLIVAN,
MAUREEN O CONNELL, ARTHUR NASTRE,
RONALD D. WEISS P.C.,
FRIEDMAN AND VARTOLO, LLP,
KNUCKLES KOMOSINSKI AND MANFRO, LLP,
RICHARD F. KOMOSINSKI, MICHAEL W. NARDOLILLO,
JULIANA THIBAUT, ZACHARY ROBIN GOLD,
SEAN MONAHAN,

NOTICE OF PENDENCY

Defendants.

-----x

PLEASE TAKE NOTICE that pursuant to Article 65 of the New York Civil Practice Law and Rules (CPLR), Plaintiff Garrett B. Tupper Jr. hereby files this Notice of Pendency against the property affected by the above-captioned action, which is a wrongful foreclosure lawsuit Case No: 24-CV-24-2582-GRB-SIL. The nature of the action involves allegations that the foreclosure of the property owned by Plaintiff was wrongful and not conducted in accordance with the laws of the State of New York and Federal laws.

(a) a mortgage bearing date October 15, 2004 given by Aileen Tupper and Garrett Tupper Jr. to JP Morgan Chase Bank to secure the sum of \$333,700.00 and recorded in Liber 27839 of Mortgages at Page 768 in the office of the County Clerk/City Register of Nassau County on November 3, 2004; and

(b) a mortgage bearing date October 19, 2012 given by Aileen Tupper and Garrett Tupper Jr. to JP Morgan Chase Bank, N.A. to secure the sum of \$1,709.02 and recorded in Liber 37939 of Mortgages at Page 898 in the office of the County Clerk/City Register of Nassau County on November 14, 2012; and

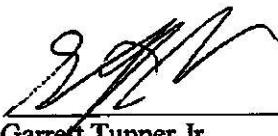
(c) a consolidation, extension and modification agreement in which mortgages in (a) and (b) above were consolidated to form a single lien in the amount of \$291,675.00 given by Aileen Tupper and Garrett Tupper Jr. to JP Morgan Chase Bank, N.A. dated October 19, 2012 recorded in Liber 37939 of Mortgages at Page 912 in the office of the County Clerk/City Register of Nassau County on November 14, 2012 and which mortgages as consolidated were ultimately alledged to be assigned to M.T.G.L.Q. Investors, L.P., herein as evidenced by written instrument dated February 2, 2016 and recorded with the Nassau County Clerk/City Register on April 13, 2016 in Liber 41151 of Mortgages at Page 375, although said mortgages as consolidated were cancelled pursuant to 15 U.S.C. 1635 on April 8, 2014.

AND NOTICE IS FURTHER GIVEN, that the premises affected by the said wrongful foreclosure action was, at the time of the commencement of said action, and at the time of the filing of this Notice, situated in the Incorporated Village of Williston Park, Town of North Hempstead, County of Nassau and State of New York, and being known as and by the street address of 537 Liberty Avenue, Williston Park, New York 11596 and more particularly described on the tax map of the Incorporated Village of Williston Park in the Town of North Hempstead as Section 9 Block 272 Lot 144 and more particularly described in the said mortgage, to wit, see Schedule "A" annexed.

The Clerk/ of The Eastern District of New York is directed to index this notice to the names of the Defendants: The State Of New York, David P. Sullivan, Maureen O'Connell, Arthur Nastre, Ronald D. Weiss P.C., Friedman And Vartolo, LLP, Knuckles, Komosinski And Manfro, LLP, Richard F. Komosinski, Michael W. Nardolillo, Juliana Thibaut, Zachary Robin Gold, and Sean Monahan.

Dated: Williston Park, NY

June 20, 2024



Garrett Tupper Jr.
537 Liberty ave
Williston Park, NY 11596
(347)612-6072

Title No. [REDACTED]

**SCHEDULE A
DESCRIPTION**

Section 9 Block 272 and Lot 144

ALL that certain plot, piece or parcel of land situate, lying and being in the Incorporated Village of Williston Park, Town of North Hempstead, County of Nassau and State of New York, known and designated as the Southerly 14 feet of Lot No. 45, all of Lot No. 44 and the Northerly 9 feet of Lot No. 43 in Block 36 on a certain map entitled, "Amended Map of Williston Plaza, Section No. 1, William H. Parry, Civil Engineer, City Surveyor, Jamaica, New York City, August 1928," and filed in the Nassau County Clerk's Office on September 8, 1928 as Map No. 941, New No. 2674, known and designated as house number 537 Liberty Avenue, Williston Park, Long Island, New York, bounded and described according to said map as follows:

BEGINNING at a point on the Westerly side of Liberty Avenue, distant 186 feet Southerly from the corner formed by the intersection of the Westerly side of Liberty Avenue and the Southerly side of East Williston Avenue (old line);

RUNNING THENCE Westerly at right angles to Liberty Avenue, 100 feet;

THENCE Southerly parallel with Liberty Avenue, 43 feet;

THENCE Easterly again at right angles to Liberty Avenue, 100 feet to the Westerly side of Liberty Avenue;

THENCE Northerly along the Westerly side of Liberty Avenue, 43 feet to the point or place of BEGINNING.

Premises known as 537 Liberty Avenue, Williston Park, New York

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
GARRETT B. TUPPER JR.

Case No.: 24-CV-24-2582

Plaintiff,

-against

AFFIRMATION OF SERVICE

THE STATE OF NEW YORK,
JUDGE DAVID P. SULLIVAN,
MAUREEN O'CONNELL ARTHUR NASTRE
RONALD D. WEISS P.C.
FRIEDMAN AND VARTOLO, LLP,
KNUCKLES KOMOSINSKI AND MANFRO, LLP,
RICHARD F KOMOSINSKI,
MICHAEL WILLIAM NARDOLILLO,
JULIANA THIBAUT, ZACHARY ROBIN GOLD,
SEAN MONAHAN

Defendants,

-----X

I, Garrett Tupper Jr, declare under penalty of perjury, that I have served a copy of the Notice of Pendency upon parties whose addresses are in the attached Ryder by ECF.

Dated: June 20, 2024

Garrett Tupper Jr.

/s/Garrett Tupper Jr.
537 Liberty ave
Williston Park, NY 11596
(347) 612-6072
garrett@peoplepc.com

Zachary Robin Gold Attorney
for:
Friedman and Vartolo, LLP
By ECF

Zachary Robin Gold Attorney
for Zachary Robin Gold
By ECF

John E. Brigandi Attorney for:
Knuckles Komosinski and
Manfro, LLP
By ECF

John E. Brigandi Attorney For:
Richard F Komosinski
By ECF

Zachary Robin Gold Attorney
For:
Sean Monahan
By ECF

Zachary Robin Gold Attorney
For:
Michael William Nardolillo
By ECF

Matthew M Rozea Attorney For:
Arthur Nastre
By ECF

Matthew M Rozea Attorney For:
Maureen O'Connell
By ECF

Joseph L Francoeur
Evgenia Soldatos: Attorneys
For:

Ronald D. Weiss P.C.
By ECF

Beth M Kaufman Attorney For:
Judge David P. Sullivan
By ECF

Beth M Kaufman Attorneys For:
The State of New York
By ECF

Zachary Robin Gold Attorney
for:
Juliana Thibaut
By ECF

EXHIBIT B

State case



NASSAU COUNTY CLERK

PROVIDED BY eZPAY

Your payment of \$356.35 using Mastercard ****3149 has been accepted as Transaction ID 120536456533 on 07/11/2024 at 3:53:53 PM.

Receiving
Bill Date: 07/11/24
Description : lis pendens
Payer : garrett tupper
Amount: \$345.00

L.P-

Subtotal:	\$345.00
Site fee:	\$11.35
Payment total:	\$356.35

Like what you saw? Learn more about how Xpress-pay can help your business:

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Official Receipt for Recording in:

Nassau County Clerk
240 Old Country Road
Mineola, NY 11501

Issued To:
GARRETT TUPPER

WILLISTON PARK NY

Recording Fees

Filing Type	Number	Volm	Page	Time	Recording Amount
X10 - LIS PENDENS	RefID#:	IN 24	000533		
	00320356	02352	00288	03:51:14p	45.00
CU CULTURAL EDUCATION					.25
CV CULTURAL ED COUNTY					.75
FA Flat rate .25					.25
FI Flat rate 4.75					4.75
FP Flat rate 8.00					8.00
FW Flat rate 15.00					16.50
NM Names fee					.50
DR-GARRETT B TUPPER JR					
IN-STATE OF NEW YORK					

Blocks - \$300	00320356	03:51:14p	300.00
BL Blocks			300.00

345.00

Collected Amounts

Payment Type	Amount
Credit Card X-Pay	120536456533

345.00

Total Received : 345.00

Less Total Recordings: 345.00

Change Due : .00

Thank You
MAUREEN O'CONNELL - County Clerk

By - 001 AAJ

Receipt# Date Time
322391i 07/11/2024 03:45p

Thank You
MAUREEN O'CONNELL - County Clerk

001 CAG

Receipt# Date Time
23941 07/11/2024 03:54p

Official Receipt for Recording in:

Nassau County Clerk
240 Old Country Road
Mineola, NY 11501

Issued To:
GARRETT B TUPPER JR
537 LIBERTY AVE
WILLISTON PARK NY 11596

Recording Fees

Filing Type	Number	Volm	Page	Time	Recording Amount
COINF - INDEX NUMBER - NO FEE	RefID#:	IN 24	000533		
	00320331			03:45:20p	.00
DR-TUPPER GARRETT B JR					
IN-STATE OF NEW YORK					

.00

Collected Amounts

Payment Type	Amount
No Fee	.00

Total Received : .00
Less Total Recordings: .00

Change Due : .00

Thank You
MAUREEN O'CONNELL - County Clerk

By - 001 AAJ

Receipt# Date Time
322391i 07/11/2024 03:45p

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

GARRETT B. TUPPER JR.

-----X
Case No.: 24-CV-24-2582

Plaintiff,

-against

AFFIRMATION OF SERVICE

THE STATE OF NEW YORK,
JUDGE DAVID P. SULLIVAN,
MAUREEN O'CONNELL ARTHUR NASTRE
RONALD D. WEISS P.C.
FRIEDMAN AND VARTOLO, LLP,
KNUCKLES KOMOSINSKI AND MANFRO, LLP,
RICHARD F KOMOSINSKI,
MICHAEL WILLIAM NARDOLILLO,
JULIANA THIBAUT, ZACHARY ROBIN GOLD,
SEAN MONAHAN

Defendants,

-----X

I, Garrett B. Tupper Jr, declare under penalty of perjury, that I have served a copy of the Ongoing Federal Litigation and Unauthorized Attempt to Sell Property upon parties whose addresses are in the attached Ryder by ECF.

Dated: August 30, 2024

Garrett B. Tupper Jr.

/s/Garrett B. Tupper Jr.
537 Liberty ave
Williston Park, NY 11596
(347) 612-6072
garrett@peoplepc.com

Zachary Robin Gold Attorney
for:
Friedman and Vartolo, LLP
By ECF

Zachary Robin Gold Attorney
for Zachary Robin Gold
By ECF

John E. Brigandi Attorney for:
Knuckles Komosinski and
Manfro, LLP
By ECF

John E. Brigandi Attorney For:
Richard F Komosinski
By ECF

Zachary Robin Gold Attorney
For:
Sean Monahan
By ECF

Zachary Robin Gold Attorney
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Michael William Nardolillo
By ECF

Matthew M Rozea Attorney For:
Arthur Nastre
By ECF

Matthew M Rozea Attorney For:
Maureen O'Connell
By ECF

Joseph L Francoeur
Evgenia Soldatos: Attorneys
For:

Ronald D. Weiss P.C.
By ECF

Beth M Kaufman Attorney For:
Judge David P. Sullivan
By ECF

Beth M Kaufman Attorneys For:
The State of New York
By ECF

Zachary Robin Gold Attorney
for:
Juliana Thibaut
By ECF